

## REMARKS

The Examiner has required a restriction of the pending claims to one of the following groups:

Group I. Claims 1-14, drawn to a binding motif of a receptor, classified in class 530, subclass 350.

Group II. Claims 15-19, drawn to a method of phosphorylating a binding motif of a receptor, comprising binding a triggering molecule to the receptor, classified in class 436, subclass 501.

Group III. Claims 20 and 23, drawn to a method of binding a cytoplasmic protein to a receptor, comprising phosphorylating a binding motif to a receptor and subjecting the motif to a cytoplasmic protein, classified in class 436, subclass 501.

Group IV. Claims 21-22 and 24-25, drawn to a method of activating cellular activities by regulating the activation of phosphorylation of a binding motif of a receptor followed by binding to a cytoplasmic protein, classified in class 435, subclass 375.

Group V. Claims 26 and 27, drawn to a method of inhibiting cell survival by an antagonist which binds to the receptor motif, classified in class 435, subclass 375.

Group VI. Claim 28, drawn to a method of inhibiting cell activation, classified in class 435, subclass 375.

Group VII. Claim 29, drawn to a method of treating a cytokine mediated condition by regulating the activation of phosphorylation of a binding motif of a receptor, classification dependent upon compound administered.

#### **Claim Group Election**

In order to be fully responsive to the Requirement for Restriction, Applicants hereby provisionally elect, with traverse, to prosecute claims 21-22 and 24-25, corresponding to Group IV. For whatever group is elected, further restriction within the elected group is required by the Examiner, i.e., one specific receptor binding motif selected from the list of 27 different motifs in claim 8 and one specific receptor encompassing that motif from the list of 22 in claim 7. Accordingly, Applicants elect HSRSLP (SEQ ID NO:4)<sup>1</sup> with respect to claim 8 and GM-CSF/IL-3/IL-5 with respect to claim 7.

Applicants respectfully traverse the Requirement for Restriction and reserve the right to petition therefrom under 37 C.F.R. § 1.144. Applicants respectfully request reconsideration of the Restriction Requirement. In particular, Applicants respectfully request reconsideration of the Restriction Requirement to allow prosecution of Group I with elected Group IV.

According to Patent Office examining procedures, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent

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<sup>1</sup> Claims 1 and 3-29 read on HSRSLP (SEQ ID NO:4).

inventions." (MPEP 803).

Applicants respectfully submit that claims 1-14 of Group I and claims 21, 22, 24 and 25 of Group IV define products and methods for using such products that do not warrant separate examination and search. The present claims represent a web of knowledge and continuity of effort that merits examination in a single application.

A thorough search of the subject matter of claims 21, 22, 24 and 25 of Group IV would necessarily include a search of the subject matter of claims 1-14 as they all involve binding motifs of receptors. Furthermore, claims 21, 22, 24 and 25 contain all the limitations of claims 1-14 by their direct or indirect dependency from these claims. Hence, it is believed that a single search of the subject matter in claims 21, 22, 24 and 25 would necessarily and inescapably require a search of the features of the products recited in claims 1-14 of Group I. Applicants therefore respectfully request examination of claim Groups I and IV in this application.

The applicants also reserve their right to rejoinder of the non-elected claims prior to a notice of allowance for the elected claims of group IV pursuant to 35 U.S.C. §103(b)(2), under which a patent issued on a biotechnological process shall also contain claims directed towards the composition of matter utilized by that process.

Claims 1-13 of Group I are directed to a binding motif of a receptor capable of binding a cytoplasmic protein, said binding motif comprising an amino acid sequence wherein at least one amino acid is serine/threonine. Claim 14 of Group I is directed to a phosphorylated binding motif of a GM-CSF/IL-3/IL-5 receptor capable of binding a cytoplasmic protein, said binding motif comprising an amino acid sequence including the sequence <sup>582</sup>HSRSLP<sup>587</sup> (SEQ ID NO:31) of the GM-CSF/IL-3/IL-5 receptor or a

functional equivalent or analogue thereof wherein at least Ser<sup>585</sup> is phosphorylated.

Claims 21, 22, 24 and 25 are directed to methods of activating or regulating cellular activities by activating or regulating the phosphorylation of such binding motifs, and therefore define a biotechnological process using an also claimed novel composition, i.e., the receptor binding motifs of claims 1-14. Accordingly, claims 1-14 are covered by the special case set forth in 35 U.S.C. §103(b)(3)(A) regarding biotechnology inventions, i.e., claims to a biotechnological process using an also claimed novel composition should be in one application.

#### **Species Election within Group IV**

The Office Action also requires the election of a single cellular activity. In response, cell survival<sup>2</sup> is elected as the cellular activity. It is noted that upon allowance of a generic claim, i.e., claim 21, applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

#### **CONCLUSION**

Therefore, in view of the above remarks, it is respectfully requested that the restriction requirement be reconsidered.

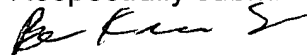
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<sup>2</sup> Claims 21, 22, 24 and 25 read on cell survival.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: February 14, 2005

Respectfully submitted,

 Res No.  
36,073

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